



**[Billing Code: 6750-01-S]**

## **FEDERAL TRADE COMMISSION**

### **Agency Information Collection Activities; Proposed Collection; Comment Request**

**AGENCY:** Federal Trade Commission (“Commission” or “FTC”).

**ACTION:** Notice and request for public comment.

**SUMMARY:** The FTC plans to conduct a study to examine consumer perception of environmental marketing claims. This is the first of two notices required under the Paperwork Reduction Act (“PRA”) in which the FTC seeks public comments on its proposed research before requesting Office of Management and Budget (“OMB”) review of, and clearance for, the collection of information discussed herein.

**DATES:** Comments must be received on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write “Green Marketing Consumer Perception Study, Project No. [P954501](#)” on your comment, and file your comment online at <https://ftcpublic.commentworks.com/ftc/organicstudypra>, by following the instructions on the web-based form. If you prefer to file your comment on paper, mail or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Room H-113 (Annex J), 600 Pennsylvania Avenue, NW, Washington, DC 20580.

**FOR FURTHER INFORMATION CONTACT:** Laura Koss, Attorney, 202-326-2890, or Hampton Newsome, Attorney, 202-326-2889, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission.

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

The Commission's Guides for the Use of Environmental Marketing Claims ("Green Guides" or "Guides") (16 CFR part 260) help marketers avoid making unfair and deceptive environmental claims.<sup>1</sup> The Guides outline general principles that apply to all environmental marketing claims and provide guidance regarding specific categories of such claims.<sup>2</sup> These categories include: General environmental benefit claims such as "environmentally friendly"; degradable claims; compostable claims; recyclable claims; recycled content claims; source reduction claims; refillable claims; and "free-of" claims. The Green Guides explain how reasonable consumers are likely to interpret claims within these categories. The Guides also describe the basic elements necessary to substantiate claims and present options for qualifying them to avoid deception.<sup>3</sup> The illustrative qualifications provide "safe harbors" for marketers who want certainty, but do not represent the only permissible approaches. The Guides do not provide specific guidance regarding "organic" claims.

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<sup>1</sup> The Commission issued the Green Guides in 1992 (57 FR 36363) and subsequently revised them in 1996 (61 FR 53311), 1998 (63 FR 24240), and 2012 (77FR 62121).

<sup>2</sup> 15 U.S.C. 45(a). The Commission's industry guides, such as the Green Guides, are administrative interpretations of the application of Section 5 of the FTC Act, 15 U.S.C. 45(a) to advertising claims. The Commission issues industry guides to provide guidance for the public to conform with legal requirements. These guides provide the basis for voluntary abandonment of unlawful practices by industry members. 16 CFR part 17. The Guides do not have the force and effect of law and are not independently enforceable. However, the Commission can take action under the FTC Act if a business makes environmental marketing claims inconsistent with the Guides. In any such enforcement action, the Commission must prove that the act or practice at issue is unfair or deceptive.

<sup>3</sup> The Guides do not, however, establish standards for environmental performance or prescribe testing protocols.

## **II. The FTC’s Proposed Study**

### **A. Study Description**

The FTC plans to conduct Internet-based consumer research to explore consumer perceptions of certain environmental marketing claims, such as “organic” and “pre-consumer recycled content,” to enhance the Commission’s understanding of how consumers interpret such claims. The proposed study will compare participant responses regarding the meaning of such environmental marketing claims across different product variations. Specifically, using a treatment-effect methodology, the study will examine whether respondents viewing organic and recycled content claims believe that these products have particular environmental benefits or attributes depending on the context in which they are presented. For “recycled content” claims, the study will present questions about products produced with materials sourced under different scenarios and compare participant responses to those scenarios. Such materials described in the questions may come from products recycled by consumers or may derive from scraps that are left over from manufacturing other products and reprocessed to varying degrees. The study will also examine how respondents understand the term “organic” in a variety of contexts. The FTC staff will use the study results, along with other information such as public comments, in considering whether to recommend that the Commission propose revisions to the Green Guides.

Having considered the costs and benefits of various data collection methods, the FTC staff has concluded that an Internet panel with nationwide coverage will provide the most efficient way to collect data to meet the research objectives within a feasible budget. Thus, the FTC proposes to collect responses from a broad spectrum of the U.S. adult population. Participants will be drawn from an Internet panel maintained by a commercial firm that operates

the panel. All participation will be voluntary. While the results will not be generalizable to the U.S. population, the Commission believes that they will provide useful insights into consumer understanding of the claims being considered.

### **B. PRA Burden Analysis**

Staff estimates that respondents will require, on average, 20 minutes to complete the questionnaire. Staff will pretest the questionnaire with approximately 100 respondents to ensure that all questions are easily understood. Allowing for an extra three minutes for questions unique to the pretest, the pretest will total approximately 38 hours, cumulatively (100 respondents x 23 minutes each). Once the pretest is completed, the FTC plans to seek information from up to 8,000 respondents for approximately 20 minutes each. Thus, respondents will cumulatively take approximately 2,700 hours. The cost per respondent should be negligible. Participation will not require start up, capital, or labor expenditures.

### **III. Request for Comment**

Under the PRA, 44 U.S.C. 3501-3521, federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. “Collection of information” means agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party.<sup>4</sup> As required by Section 3506(c)(2)(A) of the PRA, the FTC is providing this opportunity for public comment before requesting that OMB extend the existing paperwork clearance for the regulations noted herein.

Pursuant to Section 3506(c)(2)(A) of the PRA, the FTC invites comments on: (1)  
Whether the reporting requirements are necessary, including whether the information will be

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<sup>4</sup> 44 U.S.C. 3502(3); 5 CFR 1320.3(c).

practically useful; (2) the accuracy of our burden estimates, including whether the methodology and assumptions used are valid; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before [INSERT DATE 60 DAYS FROM FEDERAL REGISTER DATE OF PUBLICATION]. Write “Green Marketing Consumer Perception Study, Project No. P954501” on your comment. Your comment – including your name and your state – will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Website, at <http://www.ftc.gov/os/publiccomments.shtml>. As a matter of discretion, the Commission tries to remove individuals’ home contact information from comments before placing them on the Commission Website.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone’s Social Security number, date of birth, driver’s license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any “[t]rade secret or any commercial or financial information which is . . . privileged or confidential,” as discussed in Section 6(f) of the FTC Act,

15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).<sup>5</sup> Your comment will be kept confidential only if the FTC General Counsel grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at <https://ftcpublic.commentworks.com/ftc/organicstudypra>, by following the instructions on the web-based form. If this Notice appears at <http://www.regulations.gov/#!home>, you also may file a comment through that website.

If you file your comment on paper, write “Green Marketing Consumer Perception Study, Project No. P954501” on your comment and on the envelope, and mail or deliver it to the following address: Federal Trade Commission, Office of the Secretary, Room H-113 (Annex J), 600 Pennsylvania Avenue, NW, Washington, DC 20580. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Website at <http://www.ftc.gov> to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the

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<sup>5</sup> In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. See FTC Rule 4.9(c), 16 CFR 4.9(c).

collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before [60 DAYS FROM FEDERAL REGISTER DATE OF PUBLICATION]. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at <http://www.ftc.gov/ftc/privacy.htm>.

By direction of the Commission.

Donald S. Clark,  
Secretary.

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